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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35714]

Puget Sound & Pacific Railroad Company—Lease Exemption—the United States of America

Puget Sound & Pacific Railroad Company (PSAP), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease from the United States of America (the Navy), and to operate, pursuant to a lease agreement dated January 16, 2013, a 44-mile line of railroad between Shelton and Bangor, Wash., and a 4.6-mile branch line to the Bremerton Navy Yard, in Kitsap and Mason Counties, Wash., a total distance of approximately 48.6 miles (the Line).

According to PSAP, there are no mileposts on the Line. PSAP states that the lease agreement replaces a transportation agreement dated December 11, 1944, between the Navy and the Northern Pacific Railway Company (Northern Pacific)¹ that covers the operations of the Line (operating agreement). PSAP points out that, under the operating agreement, it currently provides service on the above-described 48.6 miles of rail line,² and will continue to provide the same common carrier service under the lease agreement.

¹ Northern Pacific is a predecessor of PSAP.

² See PSAP Operating Co.—Acquis. and Operation Exemption—ParkSierra Corp., FD 34200 (STB served May 23, 2002).

PSAP has certified that its projected annual revenues as a result of this transaction will not result in PSAP's becoming a Class II or Class I rail carrier but that its projected annual revenue will exceed \$5 million. Accordingly, PSAP is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. 49 C.F.R. § 1150.42(e).

PSAP has certified to the Board that, on January 24, 2013, it posted notice of the transaction at the workplace of the employees on the affected lines, and on January 29, 2013, it served a copy of the notice on the national office of the potentially affected employees' labor union, as required under 49 C.F.R. § 1150.42(e). However, concurrently with its notice of exemption, PSAP filed a petition for waiver of the 60-day advance labor notice requirement under § 1150.42(e), asserting that no employees will be affected by the change from the operating agreement to the lease agreement, and that the transaction will not result in any operational or maintenance changes on the Line. PSAP's waiver request will be addressed in a separate decision.

PSAP states that it intends to consummate the transaction on February 28, 2013 (the effective date of this exemption). The Board will establish in the decision on the waiver request the earliest this transaction may be consummated.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at

any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 21, 2013.

An original and 10 copies of all pleadings, referring to Docket No. FD 35714, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

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Decided: February 11, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.